

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

CHERI DAHLIN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF DEAN DAHLIN, Deceased	:	No.
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
ARCHER-DANIELS-MIDLAND COMPANY, LYONDELL CHEMICAL COMPANY, OCCIDENTAL CHEMICAL CORPORATION, EQUISTAR CHEMICALS, LP, and EQUISTAR GP, LLC,	:	
	:	
Defendants.	:	
	:	

**DEFENDANT ARCHER-DANIELS-
MIDLAND COMPANY'S NOTICE OF
REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant, Archer-Daniels-Midland Company (hereinafter “ADM”), hereby files their Notice of Removal to this Court of the action *Cheri Dahlin, Individually and on behalf of the Estate of Dean Dahlin, Deceased v. Archer-Daniels-Midland Company, Lyondell Chemical Company, Occidental Chemical Corporation, Eustar Chemicals, LP, and Eustar GP, LLC*, Case No. 125137, filed against it in the Iowa District Court for Scott County (the “*Dahlin* action”). In support, Defendant ADM states as follows:

SUMMARY OF BASIS FOR REMOVAL

1. The *Dahlin* action was served on Defendant ADM’s representative, CT Corporation on June 13, 2014. Defendant ADM timely filed this Notice of Removal on July

14, 2014¹, and asserts that the Court has diversity jurisdiction over this matter pursuant to 28 U.S.C. §1332, and that this action is one which may be removed pursuant to 28 U.S.C. §1441. There is complete diversity of citizenship because the Plaintiff Cheri Dahlin resides in and is a citizen of Iowa and the Estate of Dean Dahlin is filed in the Iowa District Court in and for Scott County and none of the Defendants are citizens of Iowa. The amount in controversy exceeds the jurisdictional amount of \$75,000. **All defendants that have been properly joined and served consent to removal by joining in this Notice.**

2. Accordingly, all of the requirements for removal of the *Dahlin* action to this Court have been met.

STATEMENT OF FACTS

Complete Diversity of Citizenship

3. Plaintiff, Cheri Dahlin, is a resident and citizen of the State of Iowa. *See* Petition ¶1.

4. Plaintiff, Cheri Dahlin, as duly appointed Administrator of the Estate of Dean Dahlin, is also a citizen of Iowa and the estate is pending in the Iowa District Court in and for Scott County. *See* Petition ¶2.

5. Defendant, Archer-Daniels-Midland Company (“ADM”) is a Delaware Corporation with its principal office in the State of Illinois, and is therefore a citizen of Delaware and Illinois and is not a citizen of Iowa. *See* Petition ¶3; 28 U.S.C. § 1332(c)(1).

6. Defendant, Lyondell Chemical Company is a Delaware Corporation with its principal place of business in Texas, and is therefore a citizen of Delaware and Texas and is

¹ Defendant has 30 days to file for removal of action to federal court after becoming a party to the action under 28 U.S.C. § 1441. Defendant was served on June 13, 2014, and 30 days from the date of service is July 13, 2014, a Sunday. Accordingly, under FRCP 6(a)(1), Defendant has until the end of Monday July 14, 2014 to timely file for removal.

not a citizen of Iowa. *See Petition ¶ 4; 28 U.S.C. § 1332(c)(1).*

7. Defendant, Occidental Chemical Corporation is a New York corporation with its principal place of business in Texas, and is therefore a citizen of New York and Texas and is not a citizen of Iowa. *See Petition ¶ 5; 28 U.S.C. § 1332(c)(1).*

8. Defendant, Equistar Chemicals, LP is a Delaware Limited Partnership with its principal place of business in Texas. *See Petition ¶ 6.* For purposes of establishing diversity of citizenship for limited partnerships, all partners of the partnership, both limited and general, must be diverse. *See generally Carden v. Arkoma Associates*, 494 U.S. 185, 195-196 (1990). All general and limited partners of Equistar Chemicals, LP are citizens of states other than Iowa. **Specifically, the partners of Equistar Chemicals, LP are Equistar GP, LLC (General Partner), a Delaware Limited Liability Company, and Equistar LP, LLC (Limited Partner), a Delaware Limited Liability Company. Equistar GP, LLC's sole member is Equistar LP, LLC. Equistar LP, LLC is wholly-owned by Lyondell Chemical Corporation, a Delaware Corporation with its principal place of business in Texas. Therefore, each entity holding an interest in Equistar Chemicals, LP is a citizen of either Delaware or Texas and is not a citizen of Iowa.**

9. Defendant, Equistar GP, LLC is a Delaware Limited Liability Company. “[A]n L.L.C. citizenship is that of its members for diversity jurisdiction purposes.” *GMAC Commercial Credit LLC v. Dillard Dept. Stores, Inc.*, 357 F.3d 827, 829 (8th Cir. 2004). All of Equistar’s members are citizens of states other than Iowa. **Specifically, the sole member of Equistar GP, LLC is Equistar LP, LLC, a Delaware Limited Liability Company. Equistar LP, LLC is wholly-owned by Lyondell Chemical Corporation, a Delaware Corporation with its principal place of business in Texas. Therefore, each entity holding**

an interest in Equistar GP, LLC is a citizen of either Delaware or Texas and is not a citizen of Iowa.

10. Plaintiff claims personal injuries, wrongful death and loss of consortium all related to benzene exposure. Plaintiff further alleges pain and suffering, medical bills, loss of earning, pain and suffering and loss of consortium. *See* Petition ¶ 17, 22, 26 and 28. While a certain dollar amount is not alleged, the damages asserted by Plaintiff suggest that the amount in controversy exceeds \$75,000.

COMPLIANCE WITH LOCAL RULE 81

11. Finally, the Defendant has complied with Local Rule 81. Attached as Exhibit A are copies of all process, pleadings and orders filed in the *Dahlin* action. The Defendant is not aware of any motions currently pending before the Iowa District Court in the *Dahlin* action. Finally, attached as Exhibit B is a list of all counsel who appeared for Dahlin in the *Dahlin* action and their contact information.

WHEREFORE, pursuant to 28 U.S.C. §§1332, 1441 and 1446, Defendant respectfully removes the *Dahlin* action from the Iowa District Court for Scott County to this Court.

Dated: July 14, 2014

BETTY, NEUMAN & McMAHON, P.L.C.

By: /s/ Martha L. Shaff
Martha L. Shaff #AT0007215

1900 East 54th Street
Davenport, IA 52807-2708
(563) 326-4491
(563) 326-4498 (FAX)
E-mail address: mls@bettylawfirm.com

and

FOLEY & MANSFIELD
Roger K. Rea - *subject to admission pro hac*
1001 Highlands Plaza Drive West
Suite 400
St. Louis, MO 63110
(314) 925-5749
(314) 925-5701 (FAX)
E-mail address: rrea@foleymansfield.com

**ATTORNEYS FOR DEFENDANT ARCHER-
DANIELS-MIDLAND COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2014, I filed the foregoing with the Court using the Court's CM/ECF system, which should send notice of such filing to all counsel registered to receive such service, including:

Robert S. Gallagher
Gallagher, Millage & Gallagher, PLC
3870 Middle Road
Bettendorf, IA 52722
Email: rgallagherjr@gmglawfirm.com

Martha L. Shaff